

PATRONAGE.

1736. *June 24.* PATRICK MAXTON *against* MONCRIEFF of Reddie.

No. 1.

THE Lords having found the Court competent to judge of the legality of the admission of Ministers *ad hunc effectum*, to determine whether they are entitled to their stipends, 13th February 1735; they found that a Presbytery refusing a presentation duly presented in favours of a qualified person, against which there lies no legal objection, and admitting another person as Minister, the Patron has right to retain the stipend, 14th February 1735, and in the end of February adhered. And they repelled the objection, that the right of patronage was not produced before the commission *debito tempore* before the settlement, in which commission the Presbytery was a party, 20th February, 2d July 1735. But they sustained the objection to the Lady Newark, and Mr Moncrieff's rights of patronage at the time of the presentation, and during the vacancy; and therefore repelled the reasons of suspension, and found the letters orderly proceeded for the stipend. (See DICT. No. 9. p. 9909.)

1747. *June 4.*

DUKE of MONTROSE *against* The HERITORS of Strathblairn.

No. 2.

THE Provost of the Collegiate Kirk of Dunbarton being thereby Patron of sundry kirks, Enterkin, as Provost, upon the act 1690, got the 600 merks from the heritors, and renounced the patronage of the parish of Strathblairn; but the Duke of Montrose having purchased the patronage of that Provostry as well as of the parish of Strathblairn from Queen Anne, who purchased from the Duke of Richmond, pursued declarator of his right of presentation, which we sustained and reduced the foresaid renunciation by Enterkin.

1748. *November 19.*

MR CHARLES COCHRAN, Patron of the Parish of Culross.

No. 3.

A PRESBYTERY in contempt of a presentation being about proceeding to settle another Minister, and having even appointed a day for his ordination,

420

- No. 3. the Patron presented a bill of advocation, which Lord Kilkerran, Ordinary, reported, whether he should order it to be answered and sist procedure? and the Lords unanimously refused the bill as incompetent. *Vide* 26th June 1751, No. 4. *infra*. (See DICT. No. 10. p. 9909.)

1751. *June 26.*

MR CHARLES COCHRAN, Patron of Culross, *against* The HERITORS.

No. 4.

IN the above case of Mr Cochran, the Presbytery having disregarded his presentation of Trotter to be second Minister of Culross, and settled Mr Stoddart in November 1748, Mr Cochran pursued the heritors for payment of the vacant stipends; wherein compearance was made for Mr Stoddart;— and though the vacancy had continued two years from November 1746 to November 1748, before he was settled, and though Mr Cochran was not in possession of the patronage, and his right was disputed both by the Crown and by the Town of Culross, and he did not prevail in his declarator of his right till January 1749, three months after Stoddart's settlement;—yet the Lords found the Patron had right to the benefice, and preferred him to the Minister. (See DICT. No. 11. p. 9909.)

1752 *February 27.*

URQUHART of Meldrum *against* The OFFICERS OF STATE.

No. 5.

THE patronage of the common Kirks belonging to the Chapter of the Bishoprick of Ross found sufficiently constituted and conveyed by the King's charter in 1588, ratified in Parliament in 1592, and that the grant was not annulled by the acts 1606 or 1617 restoring Bishops and their Chapters, nor by the act 1593, unless the competitors would prove that there was an incumbent or Minister serving the cure in the Kirk at the date of that charter; and found also, that though patronages may be created or conveyed without infeftment, yet if they are annexed to Baronies, and thereby made feudal rights and infeftment on them taken, they cannot be transmitted without infeftment in prejudice of singular successors purchasing *bona fide* on the faith of the records. This was in effect found by preferring Urquhart of Meldrum as purchaser of the estate of Sir George M'Kenzie, son of Sir Kenneth M'Kenzie of Cromarty, and particularly of the patronage of the Kirk of Cromarty before the Crown. But a reclaiming